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OSBERG, THUY THANH	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/678,654	Applicant(s) MILLER ET AL.	
	Examiner Thuy Osberg	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 46-50, 56 and 57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 46-50, 56 and 57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/11/2007 has been entered.

- A. Claims 1-17, 19-30 and 32-57 are pending in the application.
- B. Claims 1, 3, 5, 6, 10, 12-13, 17, 20, 22, 43 and 45 were amended.

This action is made **Non-Final**.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C.121:

- Group I:** Claims 1-16, 46-50 and 56-57, drawn to specific/select the user interface elements of an instrument, classified in class 715, subclass 810.
- Group II:** Claims 22-40, drawn to design the user interface elements of an instrument, classified in class 715, subclass 762.
- Group III:** Claims 43-45, drawn to an instrument, classified in class 715, subclass 771.
- Group IV:** Claims 17-21 and 51-55, drawn to conduct business online, classified in class 705, subclass 26.

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3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable See (MPEP § 806.04, MPEP § 808.01). In the instant case, invention I has separate utility such as specifying and selecting the user interface elements of an instrument; invention II has separate utility such as designing the user interface elements of an instrument; invention III has separate utility such as defining an instrument; and invention VI has separate utility such as conducting online an instrument.

4. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (See MPEP § 808.02), restriction for examination purposes as indicated is proper.

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7. A telephone call was made to Mr. Robert Mauri on 06/28/2007 to request an oral election to the above restriction requirement. The election was made without traverse, as the result, Group I: claims 1-16, 46-50 and 56-57 shall be examined.

Response to Arguments

8. Applicant's arguments filed 06/11/2007 with respect to claim 16, 46-50 and 56-57 have been fully considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

9. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 10-16 and 48-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 10 and 12, it recites the limitation "the web tool" in line 2 of claim 10 and the limitation "said web tool" in line 7 of claim 12. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

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As such, claims 11, 13-16 and 48-50 are rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 10-16 and 48-50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As to claims 10 and 12, a "tool" as claimed does not included any structural elements, and is considered to be software, per se.

As such, claims 11, 13-16 and 48-50 are rejected as not remedying the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 1-2, 5-7, 12-14, 46, 48, 50 and 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Patent 6,985,876) in view of Gudmundson et al. (US Patent 5,907,704), hereinafter "Gudmundson".

As to claim 1, Lee discloses a method to at least specify, document and prototype an instrument having specific user interface elements to meet individual customer/market needs (abstract), comprising displaying, with a graphical user interface, an image of a customer-selected instrument type (fig. 2B, label 34; col. 2, lines 22-29), the image shown in two dimensions and having a coordinate system (col. 7, lines 16-23, lines 50-55); enabling the customer to specify, with the graphical user interface, individual ones of a plurality of instrument parameters and horizontal and vertical locations thereof in the coordinate system (col. 7, lines 8-9, that the displayed image on a common display is in a 2 dimensional format and aligned via a coordinate system containing an "X" and "Y" axis) in a self-documenting fashion (fig. 2B, label 30 and col. 7, lines 13-23); developing at least one prototype instrument for the customer based on the selected parameters and the self-documentation (fig. 2B, label 34; col. 7, lines 36-47; col. 7, lines 16-23).

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Lee does not teach enabling comprises enabling the customer to specify both a horizontal location and a vertical location on the image of at least one of the instrument parameters in response to a selection of at least one type of instrument parameter, updating the displayed image to correspond to the selected instrument parameter.

However, Gudmundson teaches enabling comprises enabling the customer to specify both a horizontal location and a vertical location on the image of at least one of the instrument parameters (fig 3, labels 310, 316O, 316D; col. 24, lines 48-58, that are elements) in response to a selection of at least one type of instrument parameter (fig. 12G, label 1123; col. 41, lines 2-5), updating the displayed image to correspond to the selected instrument parameter (col. 49, lines 17-24).

Therefore, it would have been obvious to one ordinary skill in the art the time the invention to modify Lee by enabling comprises enabling the customer to specify both a horizontal location and a vertical location on the image of at least one of the instrument parameters in response to a selection of at least one type of instrument parameter, updating the displayed image to correspond to the selected instrument parameter as taught by Gudmundson in order to change the location "X" or "Y" axis alignment (e.g. horizontal or vertical) of the elements on the display screen to provide the author the enhanced ability to design a multimedia file (image) to their preference.

As to claim 2, Lee further teaches manufacturing an instrument based on the selected instrument parameters and the self-documentation (fig. 2A, label 22; col. 6, lines 10-13 and col. 7, lines 16-23).

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As to claim 5, Lee teaches a method to specify a gauge (abstract), comprising:
in response to a user accessing a server coupled to a network (fig. 1; col. 3, lines 35-43),
displaying an image of a user-selected gauge type (fig. 2B, label 34; col. 2, lines 22-29)
comprising a set of configurable gauge functions located at a plurality of location in the image
(col. 7, lines 1-6);
displaying in association with the selected gauge type a set of visual aids corresponding to
defined functions (col. 7, lines 2-5);
enabling the user to specify ones of the configurable gauge functions using said set of visual
aids (col. 6, lines 63-67; col. 7, lines 1-7) and a drag and drop technique for selecting individual
visual aids from the set of visual aids and associating a selected visual aid with a configurable
gauge function (col. 7, lines 6-7);
and outputting a data file (col. 7, lines 24-31) for use in manufacturing at least one sample of the
selected gauge type in accordance with the configurable gauge functions corresponding to the
selected visual aids (fig. 2B, label 32; 13col. 7, lines 36-39).

Lee does not teach associating also associates the configurable gauge function with a
defined function corresponding to the selected visual aid, wherein enabling comprises enabling
the user to move using the drag and drop technique at least one of the configurable gauge
functions in at least two dimensions on the image of the selected gauge type.

However, Gudmundson teaches associating also associates the configurable gauge
function with a defined function corresponding to the selected visual aid, wherein enabling
comprises enabling the user to move using the drag and drop technique at least one of the
configurable gauge functions in at least two dimensions on the image of the selected gauge
type (col. 51, lines 9-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by associating the configurable gauge function with a defined function corresponding to the selected visual aid as taught by Gudmundson in order to provide an easy to use feature to modify an entry that is linked to a specific function and maintain the relationship while using the drag and drop technique.

As to claim 6, Lee further teaches where at least one of the configurable gauge functions is located at a fixed location in the image (fig. 4; col. 6, lines 44-48).

As to claim 7, Lee further teaches where the configurable gauge functions are located at user selected locations in the image (col. 6, lines 35-41).

As to claim 12, Lee teaches a tool operable to enable a user to specify a gauge (abstract), comprising a graphical user interface for displaying an image of a user-selected gauge type (fig. 2B, label 34; col. 2, lines 22-29) comprising a set of configurable functions located at a plurality of location in the image (lines 1-6), for displaying in association with the selected gauge type a set of visual aids corresponding to defined functions (col. 7, lines 2-5) and for enabling the user to specify individual ones of the configurable gauge functions using said set of visual aids (col. 6, lines 63-67; col. 7, lines 1-7) with a drag and drop technique for selecting individual visual aids from the set of visual aids and associating a selected visual aid with a configurable gauge function (col. 7, lines 6-7), said tool being further operable for outputting a data file (col. 7, lines 24-31) for use in manufacturing at least one sample of the selected gauge type in accordance with the gauge functions corresponding to the selected visual aids (fig. 2B, label 32; col. 7, lines 36-39).

Lee does not teach associating also associates the configurable gauge function with a defined function corresponding to the selected visual aid, and wherein said graphical user interface enables a user to move using the drag and drop technique at least one of the configurable gauge functions in at least two dimensions on the image of the selected gauge.

However, Gudmundson teaches associating also associates the configurable gauge function with a defined function corresponding to the selected visual aid, and wherein said graphical user interface enables a user to move using the drag and drop technique at least one of the configurable gauge functions in at least two dimensions on the image of the selected gauge (col. 51, lines 9-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by associating the configurable gauge function with a defined function corresponding to the selected visual aid as taught by Gudmundson to provide an easy to use feature to modify an entry that is linked to a specific function and maintain the relationship while using the drag and drop technique.

As to claim 13, Lee further teaches where at least one of the configurable gauge functions is located at fixed a location in the image (fig. 4; col. 6, lines 44-48).

As to claim 14, Lee further teaches where the configurable gauge functions are located at user selected locations in the image (col. 6, lines 35-41).

As to claims 46, 48 and 50, Lee does not teach the data file comprises a mapping data file configured to instruct a controller to map between gauge inputs and associated ones of the gauge functions.

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However, Gudmundson teaches the data file comprises a mapping data file configured to instruct a controller to map between gauge inputs and associated ones of the gauge functions (col. 50, lines 57-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by the data file comprises a mapping data file configured to instruct a controller to map between gauge inputs and associated ones of the gauge functions as taught by Gudmundson in order to provide an end product that is functional and operational based on the association in the data file (e.g., mapping).

As to claim 56, Lee teaches a method (Abstract), comprising:

displaying a gauge face for a user-selected gauge type (fig. 2B, label 34; col. 2, lines 22-29), the gauge face shown in two dimensions (col. 7, lines 16-23, lines 50-55);

displaying, in association with the selected gauge type, a set of visual aids (col. 7, lines 2-5) at predetermined vertical and horizontal locations on the gauge face (lines 1-6), each of the visual aids corresponding to at least one potential gauge functions (col. 7, lines 6-7);

enabling a user to specify at least one of the potential gauge functions for each of the selected ones of the visual aids in the set (col. 6, lines 63-67; col. 7, lines 1-7);

outputting a data file (col. 7, lines 24-31) for use in manufacturing a sample of a gauge corresponding to the user-selected gauge type, the data file comprising data corresponding to the selected visual aids (fig. 2B, label 32; col. 7, lines 36-39);

and based at least on the output data file (col. 7, lines 24-31), manufacturing the sample of the gauge (fig. 2B, label 32; col. 7, lines 36-39) wherein a gauge face of the gauge comprises symbols corresponding to the visual aids (fig. 2B, label 34; col. 2, lines 22-29), each symbol presented on the gauge face at a horizontal and vertical location that corresponds to a corresponding visual aid and horizontal and vertical locations thereof in the coordinate system

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(col. 7, lines 8-9, that the displayed symbol is aligned via a coordinate system containing and "X" and "Y" axis).

Lee does not teach the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids.

However, Gudmundson teaches the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids (col. 50, lines 57-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by having the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids as taught by Gudmundson in order to provide a standardized design with symbols and an interface that provides functionality based on a control element.

As to claim 57, Lee teaches a method (Abstract) a method, comprising:
displaying a gauge face for a user-selected gauge type (fig. 2B, label 34; col. 2, lines 22-29), the gauge face shown in two dimensions (col. 7, lines 16-23, lines 50-55);
displaying, in association with the selected gauge type, a set of visual aids (col. 7, lines 2-5), each of the visual aids corresponding to at least one potential gauge function (col. 7, lines 6-7);
enabling a user to place selected ones of the visual aids at horizontal and vertical locations chosen by the user (col. 6, lines 63-67; col. 7, lines 1-7);
enabling the user to specify at least one of the potential gauge functions for each of selected ones of the visual aids in the set (col. 6, lines 63-67; col. 7, lines 1-7);

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outputting a data file (col. 7, lines 24-31) for use in manufacturing a sample of a gauge corresponding to the user-selected gauge type, the data file comprising data corresponding to the selected visual aids (fig. 2B, label 32; col. 7, lines 36-39); and based at least on the output data file (col. 7, lines 24-31), manufacturing the sample of the gauge (fig. 2B, label 32; col. 7, lines 36-39), wherein a gauge face of the gauge comprises symbols corresponding to the visual aids (fig. 2B, label 34; col. 2, lines 22-29), each symbol presented on the gauge face at a horizontal and vertical location that corresponds to a corresponding visual aid (col. 7, lines 8-9, that the displayed symbol is aligned via a coordinate system containing an "X" and "Y" axis.

Lee does not teach the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids.

However, Gudmundson teaches the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids (col. 50, lines 57-63).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by having the associated specified gauge functions and locations on the gauge thereof and the gauge comprises a controller to provide the specified gauge functions corresponding to the symbols of the visual aids as taught by Gudmundson in order to provide a standardized design with symbols and an interface that provides functionality based on a control element.

15. Claims 3-4 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Gudmundson and further in view of Henson (US Patent 6,167,383).

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As to claim 3, Lee teaches method to specify a gauge (abstract), comprising: in response to a user accessing a server coupled to a data communications network (fig. 1; col. 3, lines 35-43), displaying an image of a user-selected gauge type (fig. 2B, label 34; col. 2, lines 22-29), the image shown in at least two dimensions (col. 7, lines 16-23, lines 50-55) and comprising a plurality of at least two-dimensional visual aids, the plurality of at least two-dimensional visual aids (col. 6, lines 63-67; col. 7, lines 1-7) placed at a plurality of vertical and horizontal locations in the image (col. 7, lines 8-9, that the displayed image on a common display is in a 2 dimensional format and aligned via a coordinate system containing an "X" and "Y" axis).

Lee does not teach at least two of the plurality of at least two-dimensional visual aids having different shapes in the at least two dimensions and having different vertical locations on the image and in response to a selection of at least one type of gauge function for one of the visual aids, changing the displayed image to correspond to the selected gauge function.

However, Gudmundson teaches at least two of the plurality of at least two-dimensional visual aids having different shapes in the at least two dimensions and having different vertical locations on the image (fig 3, labels 310, 316O, 316D; col. 24, lines 48-58, that are elements) and in response to a selection of at least one type of gauge function for one of the visual aids (fig. 12G, label 1123; col. 41, lines 2-5), changing the displayed image to correspond to the selected gauge function (col. 49, lines 17-24; col. 51, lines 9-28).

Therefore, it would have been obvious to one ordinary skill in the art the time the invention to modify Lee by having at least two of the plurality of at least two-dimensional visual aids having different shapes in the at least two dimensions and having different vertical locations on the image and in response to a selection of at least one type of gauge function for one of the visual aids, changing the displayed image to correspond to the selected gauge

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function as taught by Gudmundson in order to change/specify the location "X" or "Y" axis alignment (e.g. horizontal or vertical) of the elements on the display screen to provide the author the enhanced ability to design a multimedia file (image) to their preference.

Lee and Gudmundson do not teach enabling the user to specify individual ones of gauge functions using a plurality of drop down menus.

However, Henson teaches enabling the user to specify individual ones of gauge functions using a plurality of drop down menus (fig. 3A, label 77; col. 9, lines 13-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by enabling the user to specify individual ones of gauge functions using a plurality of drop down menus as taught by Henson in order to provide the customer with pre-selected available options through an easier to use design interface.

As to claim 4, Lee further teaches preparing at least one sample of the selected gauge type in accordance with the selected gauge functions (fig. 2B, label 34; col. 7, lines 36-41).

As to claim 10, Lee teaches a tool operable to specify a gauge, comprising a graphical user interface for displaying an image of a selected gauge type (fig. 2B, label 34; col. 2, lines 22-29), the image shown in at least two dimensions (col. 7, lines 16-23, lines 50-55) and comprising a plurality of visual aids (col. 6, lines 63-67; col. 7, lines 1-7), the plurality of visual aids placed at a plurality of vertical and horizontal locations in the image (col. 7, lines 8-9, that the displayed image on a common display is in a 2 dimensional format and aligned via a

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coordinate system containing an "X" and "Y" axis) the graphical user interface further for enabling a user of the web tool (fig. 3; col. 6, lines 33-38).

Lee does not teach the graphical user interface enable specification by the user of both a horizontal location and a vertical location in the image of at least one of the instrument parameters, the graphical user interface, further operable, in response to a selection of at least one type of gauge function, to change the displayed image to correspond to the selected gauge function for one of the visual aids.

However, Gudmundson teaches the graphical user interface enable specification by the user of both a horizontal location and a vertical location in the image of at least one of the instrument parameters (fig 3, labels 310, 316O, 316D; col. 24, lines 48-58, that are elements), the graphical user interface, further operable, in response to a selection of at least one type of gauge function (fig. 12G, label 1123; col. 41, lines 2-5), to change the displayed image to correspond to the selected gauge function for one of the visual aids (col. 49, lines 17-24; col. 51, lines 9-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee by having the graphical user interface enable specification by the user of both a horizontal location and a vertical location in the image of at least one of the instrument parameters, the graphical user interface, further operable, in response to a selection of at least one type of gauge function, to change the displayed image to correspond to the selected gauge function for one of the visual aids as taught by Gudmundson in order to change/specify the location, "X" or "Y" axis alignment (e.g. horizontal or vertical) of the elements on the display screen to provide the author the enhanced ability to design a multimedia file (image) to their preference.

Lee and Gudmundson do not teach to specify individual ones of gauge functions of the visual aids using at least one drop down menu, further operable, in response to a selection of at least one type of gauge function for one of the visual aids.

However, Henson teaches to specify individual ones of gauge functions of the visual aids using at least one drop down menu (fig. 3A, label 77; col. 9, lines 13-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by teach to specify individual ones of gauge functions using at least one drop down menu as taught by Henson in order to provide the customer with pre-selected available options through an easier to use design interface.

As to claim 11, Lee further teaches operable to send a data file (col. 7, lines 24-31) for use in preparing at least one sample of the selected gauge type in accordance with the selected gauge functions (fig. 2B, label 32; col. 7, lines 36-41).

16. Claims 8-9, 15-16, 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Gudmundson, and further in view of Motomiya (US Patent 6,083,267).

As to claim 8, Lee and Gudmundson do not teach the configurable gauge functions are located at user selected locations in the image, and have a fixed size and shape.

However, Motomiya teaches the configurable gauge functions are located at user selected locations in the image (col. 6, lines 7-10), and have a fixed size and shape (col. 4, lines 63-67 and col. 5, lines 1-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by locating the configurable gauge functions at user selected locations in the image as taught by Motomiya in order to ensure the gauge is designed utilizing the available fixed size and shapes to the users specifications.

As to claim 9, Lee and Gudmundson do not teach the configurable gauge functions are located at user selected locations in the image, and have at least one of a size and a shape selected by the user.

However, Motomiya teaches the configurable gauge functions are located at user selected locations in the image (col. 6, lines 7-10), and have at least one of a size (col. 4, lines 63-67) and a shape (col. 6, lines 4-7) selected by the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by locating the configurable gauge functions at user selected locations in the image, and have at least one of a size and a shape selected by the user as taught by Motomiya in order to give the user the ability to design the gauge to their needs, by selecting the location, size and shape of the configurable gauge function.

As to claim 15, Lee and Gudmundson do not teach the configurable gauge functions are located at user selected locations in the image, and have a fixed size and shape.

However, Motomiya teaches the configurable gauge functions are located at user selected locations in the image (col. 6, lines 7-10), and have a fixed size and shape (col. 4, lines 63-67 and col. 5, lines 1-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by locating the

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configurable gauge functions at user selected locations in the image as taught by Motomiya in order to ensure the gauge is designed utilizing the available fixed size and shapes to the users specifications.

As to claim 16, Lee and Gudmundson do not teach the configurable gauge functions are located at user selected locations in the image, and have at least one of a size and a shape selected by the user.

However, Motomiya teaches the configurable gauge functions are located at user selected locations in the image (col. 6, lines 7-10), and have at least one of a size (col. 4, lines 63-67) and a shape (col. 6, lines 4-7) selected by the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by locating the configurable gauge functions at user selected locations in the image, and have at least one of a size and a shape selected by the user as taught by Motomiya in order to give the user the ability to design the gauge to their needs, by selecting the location, size and shape of the configurable gauge function.

As to claims 47 and 49, Lee and Gudmundson do not teach allowing, after a visual aid has been associated with a chosen configurable gauge function, the user to perform at least one of changing a location of the chosen configurable gauge function, re-sizing the chosen configurable gauge function, changing an orientation of the chosen configurable gauge function, changing an aspect ratio of the chosen configurable gauge function, or changing a shape of the chosen configurable gauge function, and wherein the data file also comprises information

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corresponding to resultant location, size, orientation aspect ratio, or shape of the chosen configurable gauge function.

However, Motomiya teaches allowing, after a visual aid has been associated with a chosen configurable gauge function, the user to perform at least one of changing a location of the chosen configurable gauge function, re-sizing the chosen configurable gauge function (col. 4, lines 63-67; col. 6, lines 7-10), changing a shape of the chosen configurable gauge function (col. 6, lines 4-7), and wherein the data file also comprises information corresponding to resultant location, size, orientation aspect ratio, or shape of the chosen configurable gauge function (col. 1, lines 52-60; col. 2, lines 15-21; col. 3, lines 39-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee and Gudmundson by allowing, after a visual aid has been associated with a chosen configurable gauge function, the user to perform at least one of changing a location of the chosen configurable gauge function, re-sizing the chosen configurable gauge function, changing an orientation of the chosen configurable gauge function, changing an aspect ratio of the chosen configurable gauge function, or changing a shape of the chosen configurable gauge function, and wherein the data file also comprises information corresponding to resultant location, size, orientation aspect ratio, or shape of the chosen configurable gauge function as taught by Motomiya in order to give the user the ability to design the gauge to their needs, by selecting/changing the location, re-size and shape of the configurable gauge function.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332- 33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

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The Examiner notes MPEP § 2144.01, that quotes In re Preda, 401 F.2d 825,159 USPQ 342, 344 (CCPA 1968) as stating "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Further MPEP 2123, states that "a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

Conclusion

17. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. 1.111(c) to consider these references fully when responding to this action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Osberg whose telephone number is 571-270-1258. The examiner can normally be reached on Monday-Friday (8:30AM-5:00PM).

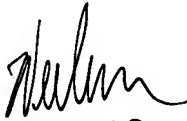
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TTO


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SUPERVISORY PATENT EXAMINER